

Notice of Allowability

Application No.

10/091,079

Examiner

Vinh T Luong

Applicant(s)

MENJAK, RATKO

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/19/2004.
2. ☒ The allowed claim(s) is/are 1-29.
3. ☒ The drawings filed on 19 March 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 3/19/04 & 12/12/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



Vinh T. Luong
Primary Examiner

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1. The Amendment filed on March 19, 2004 has been entered.
2. Claims 1-29 are allowed.
3. The following is an examiner's statement of reasons for allowance: claims 1-29 are allowed because:

(A) The functional limitations in the claims are accorded patentable weight. See *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920-21 (Fed. Cir. 1989); MPEP §§ 2173.05(g) and 2143.03; and

(B) The closest prior art, Shimizu (US Patent No. 4,825,972) does not teach or suggest the hub in a *rotationally* fixed position relative to the hand wheel 121 as Applicant pointed out in the remark of the above Amendment. None of the cited references teach or suggest the functional limitations set forth in Applicant's claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Claim 1 is generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 4, 5, 7, 11-14, 17, 21, 22, 25-27, and 29, directed to the non-elected species are no longer withdrawn from consideration since all of the claims to the nonelected species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the

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limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

5. The replacement drawings were received on March 19, 2004. These drawings are accepted by the Examiner.

6. The information disclosure statement filed on March 19, 2004 has been considered. The fee of \$180.00 set forth in 37 CFR 1.17(p) has been charged to Deposit Account No. 06-1130 as authorized by Applicant.

7. The information disclosure statement filed December 12, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

The Examiner respectfully submits that:

(A) The copy of EPO 0 931 711 A1 has not been received;

(B) Applicant has submitted only the English Abstracts of Japanese Patent Nos.

63043846 and 2000355278 as evidenced by Applicant's statement "Japan Patent Abstract" in the filed Form PTO-FB-A820. The copy of the full text of these Japanese patents has not been received. Note that the submission of an English language abstract of a reference or an English language version of the search report by the foreign patent office may fulfill the requirement for

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a concise explanation under 37 CFR 1.98(a)(3)(i), but not the requirement for a legible copy of foreign patent under 37 CFR 1.98(a)(2)(i). See MPEP 609; and

(C) Applicant has submitted only the English Abstracts of German Publication Nos. DE 100 36 281 A1 and DE 100 20 085 C1. The English translation of the full text of these German publications have not been received. Therefore, the Examiner adds the statement "Abstract only" in the column "Translation" in the filed Form PTO-FB-A820 to clarify the record.

Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

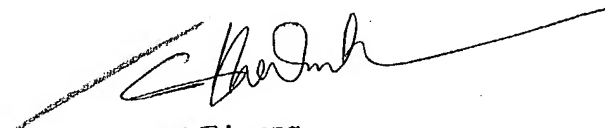
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 703-308-3221. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

June 3, 2004



Vinh T. Luong
Primary Examiner